

Crl.M.P.No.11360 of 2019
in Crl.A.No.SR 38191 of 2019

P.N.PRAKASH, J.

On the complaint lodged by the petitioner, the Police registered a case in Crime No.28 of 2011 on 01.04.2011 under Section 468, 471 and 420 IPC against R.Siva and after completing the investigation, filed a final report in C.C.No.129 of 2013 before the Judicial Magistrate, Trichy, for the said offences.

2. It is the case of the prosecution that Siva had forged certain Panchayat records and had managed to oust the petitioner herein and get appointment for himself. In C.C.No.129 of 2013, the petitioner was examined as PW-1. The Trial Court vide judgment and order dated 15.02.2016 in C.C.No.129 of 2013, convicted Siva and sentenced him to various terms of imprisonment. Challenging the conviction and sentence, Siva preferred C.A.No.11 of 2016 in the District Court, which was heard by the I Additional District and Sessions Judge, Tindivanam, in which by order dated 30.08.2016, Siva was acquitted in appeal. Challenging the acquittal, the petitioner has filed the present appeal against the acquittal with the delay of 1013 days.

3. Heard Mr.N.Suresh, learned counsel for the petitioner, Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the first respondent and Mr.G.Ethirajalu, learned counsel for the second respondent - Siva.

4. Mr.G.Ethirajalu, learned counsel for Siva contended that the petitioner himself is a tainted person and that the reasons given by him, for not preferring the appeal within the statutory time, is not satisfactory and that the same should not be condoned.

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5. Per contra, the learned counsel for the petitioner contended that the petitioner was not aware of the acquittal of Siva by the Appellate Court and only when he came to know of it, he obtained the certified copies of the order of acquittal and has preferred the present appeal.

6. In the opinion of this Court, the petitioner has made out a case of condonation of delay and accordingly, the delay is condoned. Whatever is observed herein, is only for the limited purpose of deciding the condonation of delay petition.

7. The Registry is directed to number the appeal, if the same is otherwise in order.

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23.09.2020

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